

COPY

1

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

RAJENDRA D. BADGAIYAN, M.D.,
PLAINTIFF

-VS-

NO. 0412031-JLT

ANTHONY J. PRINCIPI, Secretary
Department of Veterans' Affairs;
President and Fellows of Harvard College
and GRACE J. MUSHRUSH, M.D.,
DEFENDANTS

DEPOSITION of GRACE J. MUSHRUSH, M.D.,
taken pursuant to Federal Rules of Civil
Procedure before Deborah C. Ashton, Shorthand
Reporter and Notary Public within and for the
Commonwealth of Massachusetts, at the
Law Office of Paul H. Merry, 50 Congress Street,
Boston, Massachusetts, on Thursday, February 23,
2006, commencing at 10 a.m.

COMMONWEALTH COURT REPORTING
29 Garfield Avenue
Hyde Park, Massachusetts 02136
(617) 364-5865

1 Q And it's Grace, G-R-A-C-E; is that correct?

2 A Correct.

3 Q Can you tell me what you did to get ready for
4 the deposition today?

5 A I had a good night's rest.

6 Q Did you look over any documents?

7 A I looked over some dates to get his training
8 dates correct in my head.

9 Q And where were those dates?

10 A Pardon?

11 Q Where did you find those dates when you looked
12 them over?

13 A Oh, I looked them over in his record.

14 Q What record is that?

15 A His training record.

16 Q And where did you find that training record?

17 A Where did I find it? I found it in the file
18 at work.

19 Q And how were the dates presented in that
20 record?

21 A I don't understand the question.

22 Q Is there like a time table for residents about
23 different stages they're going through? I
24 know nothing about psychiatric residency

1 training.

2 A It's a four-year training program and there is
3 a start date and personnel action as to the
4 start.

5 Q And you said you found that in a file. Can
6 you tell me where that file is?

7 A We keep the files in the file room at work.

8 Q And is that at 940 Belmont Street?

9 A Yes.

10 Q Is there another name for that site?

11 A It's the V.A. Hospital -- Let me state it
12 correctly. It's the V.A. Hospital Care System
13 Brockton Campus. We had some mergers and
14 changes.

15 Q Did you look at any other documents besides
16 Doctor Badgaiyan's training file?

17 A No.

18 Q Did you talk with anyone about the deposition
19 today?

20 A No -- Oh, I talked to Ray that it was
21 happening and where it was.

22 Q I'm not asking for communications you had with
23 your attorney -- and there are two attorneys
24 in the room. Which one represents you or do

1 Psychoanalytic Institute?

2 A It's not a defined course of training. It's a
3 group of courses and then you have to have a
4 personal analysis and then you have to finish
5 working with three patients and sometimes it's
6 very difficult to get patients so it could
7 take a long time.

8 Q Do you have any kind of certification when you
9 complete that?

10 A Yes -- Well, not a certification, but a
11 Certificate of Completion.

12 Q And do you recall when it was that you --
13 Strike that. Did you finish?

14 A I finished in '91.

15 Q I think you may have said that you've done
16 continuing education -- or if you didn't say
17 that, do you pursue continuing education in
18 your field?

19 A Yes, it's required for a license.

20 Q And how many hours a year is required for a
21 license?

22 A I think it's 50. It might be 50 for two years,
23 but I always had more than I needed.

24 Q And did the BPSI study satisfy that

1 requirement?

2 A I can't remember when they put that
3 requirement into effect. I may have completed
4 at BPSI before that requirement went into
5 effect.

6 Q Can you describe for me what you've done in
7 the way of continued education to satisfy the
8 requirement?

9 A I attend The American Psychiatric Association
10 every year and take courses there. I attend
11 the Director of Residency Training Meeting
12 every year and take courses there. I
13 sometimes attend the American Psychoanalytic
14 Association Meeting and receive lectures there
15 and presentations.

16 And there are other sort of
17 things throughout the year that carry CME.
18 Also our grand rounds carry CME as do a number
19 of other programs at the hospital.

20 Q I'm sorry. I didn't understand the words that
21 you said. Grand rounds?

22 A Yes.

23 Q Who conducts those, by the way?

24 A Pardon?

1 Q Do you know who conducts the grand rounds?

2 A Various different people. We have invited
3 speakers.

4 Q Does grand rounds involve seeing patients or
5 does it involve listening to lectures -- or
6 something different?

7 A We have quite a varied grand round. The first
8 grand round is usually a lecture. The second
9 grand round of the month is usually a
10 psychoanalytic case discussion. The third
11 grand round is a series of lectures on
12 consultation liaison psychiatry. The fourth
13 grand round is variable. The Chief Resident
14 is presenting their research work or a talk of
15 special interest to them this year as well as
16 some other sort of talks.

17 Q Anything else that you do in the way of CME's?

18 A Read.

19 Q Why don't you tell me what publications you
20 routinely read and subscribe to and/or read?

21 A American Psychiatric Association Journal.
22 Some other clinical journals that I receive.

23 Q Do you recall the name of any of the other
24 journals?

1 and there are two Associate Professors and two
2 Assistant Professors.

3 Q What were the other 22 people?

4 A Instructors or -- Yes, I guess instructors.
5 There may have been one lecturer.

6 Q Do the duties or functions vary depending on
7 the designation of assistant, associate, full
8 instructor or lecturer?

9 A No, other than Doctor McCarley typically would
10 appoint.

11 Q Was it Doctor McCarley that appointed you; do
12 you recall?

13 A Yes -- Well, the local group, I guess, decides
14 on appointments and then recommends their
15 decisions to somebody at Harvard. I don't
16 know who --

17 MR. FIELD: I think we need to
18 clarify. This is an objection. You need
19 to clarify whether or not they're being
20 appointed as faculty or being appointed as
21 V.A. employees. That's not clear.

22 MR. MERRY: Well, my questions were
23 directed towards something that the witness
24 described as the Harvard Department of

1 Psychiatry at the V.A. and as I commented this
2 is a whole new world to me. I'll be happy to
3 direct a question that would perhaps address
4 what you just raised.

5 Q Doctor Mushrush, we were talking a moment ago
6 about the Harvard Department of Psychiatry at
7 the Veterans Administration. Do you know what
8 connection there is between that department
9 and Harvard University?

10 A The Harvard Department of Psychiatry is part
11 of the medical school.

12 Q And that's Harvard Medical School?

13 A Yes -- or it's affiliated with the medical
14 school.

15 Q Do you know the nature of the affiliation, by
16 any chance?

17 A As nearly as I can tell, it's pretty loose.
18 There is a representative from the V.A. on the
19 Dean's Committee.

20 Q The Dean's Committee at Harvard Medical
21 School?

22 A Yes.

23 Q Any other connection that you're aware of?

24 A I know that there is an Executive Committee

1 A The General Medical Education Office has an
2 agreement with both Harvard and B.U. to train
3 residents. It's an affiliation agreement.

4 Q Have you ever seen it?

5 A I don't remember if I've ever seen it or not.
6 They generally keep it in the GME office.

7 Q When you say they generally keep it, do you
8 know who "they" is that you're referring to?

9 A The Associate Chief of Staff for Education and
10 his coordinator.

11 Q And do you recall the name of that Associate
12 Chief of Staff for Education?

13 A Then or now?

14 Q During the time period 2000 to 2004?

15 A Peter Tishler was just leaving and Fred Kanter
16 was just coming so it was in a bit of a flux.

17 Q Kanter, you said?

18 A Kanter, K-A-N-T-E-R.

19 Q Does the Harvard Department of Psychiatry at
20 the V.A. have any offices on the Brockton
21 campus?

22 A Doctor McCarley has an office and he has an
23 Administrative Assistant that works for him
24 and a fiscal person.

1 Q And I have to tell you that I fear I'm
2 being -- my imagination is taking me away with
3 respect to the Mental Health Service Line.
4 That's not a telephone line, it's not a hot
5 line?

6 A No, I should maybe explain about the V.A.
7 system.

8 Q I'd be grateful for that.

9 A It used to be that the V.A. Brockton was
10 independent when I first went there. Then the
11 V.A. Brockton merged with the V.A. West
12 Roxbury and it became the Brockton/West
13 Roxbury.

14 Then it was decided by the V.A.
15 central office that there should be
16 regionalization and merges in the region. So
17 now the V.A. Boston, the V.A. West Roxbury and
18 the V.A. Brockton plus a number of our patient
19 clinics constitute the V.A. Boston Healthcare
20 System and there are dual universities
21 involved in terms of -- B.U. is involved,
22 Harvard is involved and there's a title
23 involvement in Tufts.

24 Q And I guess what I'm asking is what the Mental

1 changed, or operated or delivered?

2 A Sure.

3 Q Can you tell us what you recall?

4 A Well, right now he's doing a neuro-science
5 seminar. He had general oversight of the
6 running of it. He didn't make a major policy
7 change without consulting about it.

8 Q Did you consider him to be Harvard's spokesman
9 about these issues?

10 A Yes.

11 Q Now, you mentioned that you hold a Harvard
12 faculty appointment and I'm not trying to get
13 personal, so it's a completely innocent
14 question as to do you get compensated for that
15 position?

16 A No, I don't.

17 Q I have a lot more questions for you in this
18 area, but before I get too far away from my
19 original area, I need to ask you some more
20 background questions.

21 A Okay.

22 Q And I'm not entirely familiar with the way the
23 medical profession operates, but did your
24 internship at Albert Einstein --

1 A Yes. I'm sorry.

2 Q Was there someone supervising you at the V.A.
3 in that capacity?

4 A There was a Chief of Psychiatry there.

5 Q Did that person -- Was that a Board Certified
6 psychiatrist at that time?

7 A I don't know. He was a psychiatrist. I don't
8 know whether he ever bothered to get his
9 Board. It was in fashion back then that it
10 was less to have your Board. Now, it's
11 totally changed around.

12 Q Only people who were trying to impress got
13 their Board; is that it?

14 A I don't know exactly what was behind it. It
15 was sort of part of the movement that people
16 were free and not bound by rules and things.

17 Q Was that Chief of Psychiatry affiliated with
18 Harvard in any way?

19 A I think he got a Harvard appointment. I don't
20 know what it was, but I think it comes from
21 B.U. and he had been recruited to be Chief of
22 Psychiatry, so I'm sure he had a Harvard
23 appointment. I don't know what it was.
24 Probably Clinical Professor or something.

1 Q I suppose one thing that I'm particularly
2 curious about is -- Well, let's talk about the
3 program, if we might. Can you describe for me
4 how it's structured and the programming? I'm
5 talking about the Southshore Psychiatric
6 Residency Program.

7 A It's structure --

8 Q Again, I'm sorry to interrupt, but during the
9 time period January 1, 2000 to December 31,
10 2004.

11 A It's always been a four-year program, although
12 we did sometimes accept people in the second
13 year.

14 Q The first year is medical internship; is that
15 correct?

16 A No, the first year can have up to six months
17 of psychiatry. Do you want to know what's in
18 it?

19 Q I interrupted you twice, I'm sorry for that.
20 Please describe the program?

21 A There were at that time four months of
22 inpatient psychiatry, two months of ambulatory
23 care psychiatry, two months of neurology,
24 some inpatient psychiatry and substance abuse

1 and emergency psychiatry.

2 Q Any other topics covered?

3 A General psychiatry and geriatric psychiatry.

4 Q And how much time is devoted to each of those
5 topics, if you could tell me?

6 A Four months in medicine, two months of
7 neurology, two months of ambulatory care and
8 different years we had varying months of
9 inpatient psychiatry. Some years we had two
10 months of substance abuse, emergency
11 psychiatry, each being half time and some
12 years we had separate months for each of them.

13 Q Is this program described anywhere in a
14 document or other format?

15 A It's described in the ACGME application and
16 there are some descriptions, I believe, on the
17 Harvard website. There's not much out there.
18 And there's a brief description, I believe, on
19 the V.A. website as well.

20 There used to be a green book that
21 described programs. I think maybe FREIDA on
22 line now has a brief description and I don't
23 know where else it may be described.

24 Q FREIDA, you said?

1 V.A. in Brockton?

2 A No. There are some times that -- I mean, every
3 time they can have one or two suggestions in
4 the accreditation letter, but we have never
5 been put on probation and we got minimal --
6 They'd want us to maybe change the number of
7 residents or something, but it really wasn't a
8 significant comment. They're called comments.

9 Q Do you know if the ACGME rules have provisions
10 pertaining to discipline or expulsion of
11 residents?

12 A Not any detailed rules, no. There are some
13 vague guidelines, but there are no strong
14 definite rules.

15 Q So how do people get appointments as
16 instructors or professors in the program?

17 A Doctor McCarley appoints them.

18 Q Do people apply for these positions?

19 A Yes. They apply for Harvard academic
20 positions. There's an application form.

21 Q Is it a Harvard form?

22 A I believe so.

23 Q Have you ever seen it?

24 A Yes.

1 Q Do you know how that's available?

2 A Mary Fairbanks has them and we got a few from
3 from her.

4 Q Would you have them because the residents
5 think they might want to apply to be
6 instructors when they complete their
7 residency?

8 A No, it's because people find it easier to
9 contact me than Mary, so they -- The new
10 person coming on, they probably contact us.

11 Q And who is Mary, by the way?

12 A She is Doctor McCarley's Administrative
13 Officer for Harvard -- Administrative
14 Assistant, I'm sorry.

15 Q You don't happen to know who pays her salary,
16 do you?

17 A No, I don't. I know she takes a little bit out
18 of the grant we have. I don't know where the
19 major part of her salary comes from.

20 Q How much of the program funding comes from
21 grants?

22 A None.

23 Q I'm sorry, I thought you said you had a grant
24 that paid for part of Mary Fairbanks --

1 somebody else until we get enough people and I
2 speak to the boss and he speaks to them.

3 Q And the boss being?

4 A Doctor Kaplan.

5 Q Doctor Kaplan was in a different function than
6 Doctor McCarley was; is that correct?

7 A Yes and no. He's in the same function
8 vis-a-vis the V.A. as Doctor McCarley was, but
9 he's not in the same function vis-a-vis
10 Harvard.

11 Q I hate to ask you this, but I ask you to
12 explain that to me?

13 A Doctor McCarley was the V.A. Mental Service
14 Line Manager and Harvard Head. Doctor Kaplan
15 is now Director of Mental Service Line
16 Manager, but his primary academic appointment
17 is from B.U.

18 Q I was going to ask you, is there a B.U.
19 psychiatry department at the V.A.?

20 A I don't know. Things are changing so rapidly
21 it's hard to know. Dom Sorillo (ph.) was Head
22 of Psychiatry at B.U. and also head of Jamaica
23 Plain.

24 MR. FARQUHAR: I think he's asking

1 between 2000 and 2004.

2 MR. MERRY: I was just about to add
3 that.

4 MR. FARQUHAR: You don't have to
5 specify as of February 23, 2006. I'm
6 thinking more of the time period January 1,
7 2000 to December 31, 2004.

8 A There were both services there. I can't say
9 whether there was an actual department for
10 B.U. Certainly Dom would have been head of it
11 if there were.

12 Q But there was no question there was a
13 department from Harvard?

14 A Right. See, at that point Jamaica Plain was
15 separate from us and the B.U. contingent was
16 mostly up there and Harvard had West Roxbury
17 and Brockton. But now they've opened it up so
18 both universities are more integrated.

19 Q What's the Training Committee do?

20 A The Training Committee does the day-to-day
21 stuff and reviews how residents are doing
22 dealing with ongoing problems as they come up.
23 Tries to deal with things at that level and
24 sort of supervises the Curriculum Committee.

1 evaluations it comes up there and we try to
2 figure out a remedial plan for them.

3 If somebody didn't show up when they
4 were supposed to be on-call then we talk about
5 that and what the reason is why and what needs
6 to be done. If somebody is not coming to
7 the program then that could also come up
8 there. New things that are implemented or
9 brainstormed are discussed at this committee
10 meeting.

11 The Chief Resident who meets with
12 the other residents gives a report on the
13 residency training meetings that he's had with
14 them and any problems that come up in that
15 context or anything that needs to be done. We
16 discuss graduation. We discuss whatever the
17 business of the day is. We have ad hoc people
18 who come in to give reports on the curriculum.

19 Q What kind of records are kept of the residents
20 who are in the program in terms of their
21 evaluations and performance?

22 A First of all, in terms of their evaluations
23 and performance we keep the evaluations that
24 come back from attendants who run the various

1 rotations. We also have some test results
2 from tests that are given by either the
3 attending or the oral exam that is given every
4 year.

5 Q Anything else in the way of records maintained
6 on residents?

7 A Yes, there are about six parts to the records.
8 There is the application, then there is the
9 V.A. paperwork starting and stopping and, you
10 know, whatever they call it. I forget. It
11 has a form number that comes from personnel
12 and says they started this date and ended this
13 date and they got this much money.

14 There is, of course, files for
15 special issues. If somebody published
16 something we might have a copy of the reprint
17 in there or if there is a complaint from
18 somebody we might have the complaint in
19 there and then there is a formal evaluation
20 file. There is a termination file that has
21 hopefully a copy of their certificate when
22 they finished the program and a letter saying
23 whether they satisfactorily completed it.

24 It's supposed to state whether they

1 contact.

2 Q And those go in the resident's file that the
3 complaint is directed against?

4 A A-hum.

5 Q What kind of things get complained about?

6 A If a resident is absent a lot from the
7 service. If they aren't applying themselves.
8 If they've been a smart Alec. Doctor Gurrera,
9 who is in charge of clinical programs at this
10 point, if something happens on the POD duty,
11 then the complaint goes to him and then he
12 sometimes deals with it directly with the
13 resident and sometimes he usually sends me a
14 carbon copy or whatever -- CC of the
15 complaint.

16 Q And what is your practice with respect to
17 those complaints that come in -- and certainly
18 I hope there haven't been many?

19 A I usually ask the resident to make some
20 comment about what happened. Sometimes it is
21 said that there needs to be a larger committee
22 like with the Doctor Badgaiyan issue. Like
23 Doctor Gurrera will have a meeting if it's a
24 really big issue or a meeting with the nurses

1 and the person that the complaint is about.

2 Q Is anything else done?

3 A Well, I'm sure Doctor McCarley hears about the
4 complaints because Ron meets with them -- or
5 Doctor McCarley did at that time.

6 Q Who is Ron again, I'm sorry?

7 A Ron Gurrera, who is in charge of the clinical
8 program, and depending on what the issue is
9 there may be some remediation applied or
10 required.

11 Q What kind of remediation do you recall being
12 applied or required?

13 A Apologies, doing evaluations over, doing extra
14 work, extending training -- whatever.

15 Q What does the Promotions Committee do?

16 A It essentially rubber-stamps the promotions
17 recommended by the Training Committee if there
18 has been no problem and it reviews the problem
19 cases.

20 Q How many problem cases were there in 2002, if
21 you remember?

22 A 2002. I think one.

23 Q How about 2001, if you remember?

24 A I can't remember who was there then.

1 substance abuse, emergency psychiatry,
2 community psychiatry and there may be a few
3 others.

4 Q On what basis do residents select the
5 rotations they wish to participate in?

6 A They don't select them. I assign them because
7 they're required.

8 Q There are some that are electives; are there
9 not?

10 A They're usually the PGYIV year. They may
11 select those.

12 Q Is there more than one track within this
13 program?

14 A Yes and no. The ACGME has requirements that
15 are so strict that they jam-pack the first
16 three years.

17 Q With required courses?

18 A With required rotations.

19 Q How do they identify or designate those
20 rotations?

21 A What do you mean? Child and adolescence, two
22 months. Consultation liaison, two months.
23 Outpatient psychiatry, 12 months.

24 Q 12 months, you say?

1 Q Would you ever consult with an Attending
2 concerning the evaluation the Attending gave
3 you with relation to a resident following a
4 rotation?

5 A Yes.

6 Q Can you describe that, please?

7 A I don't know what you want me to describe
8 about it.

9 Q Can you give any examples of information that
10 you might have gotten from an Attendant that
11 would prompt you to contact that Attendant to
12 get more information -- if that's ever
13 happened?

14 A It doesn't happen as a routine thing. If
15 somebody was running an evaluation that I
16 thought was too strong I might call and ask
17 them if they realize that they had flunked the
18 person. When I was trying to do a remediation
19 case for Raj, I did contact the Attending at
20 McLean and ask if they would take him back
21 because he had not passed our patient rotation
22 up there and it seemed like the reason for
23 remediation would be to repeat the rotation.

24 Q Who was the Attending at the McLean?

1 A Sarah Bolton.

2 Q Had you ever spoken to Sarah Bolton prior to
3 discussing Raj with her?

4 A I have spoken to her about other things.
5 I hadn't spoken to her about Raj.

6 Q Did you have any kind of social relationship
7 with Sarah Bolton?

8 A No.

9 Q And on what basis did you conclude that Raj
10 had flunked his rotation at McLean?

11 A Their evaluation was a failing evaluation for
12 the CEC part of his rotation there.

13 Q What does CEC stand for?

14 A Clinical Evaluation Center, I think.

15 Q So is there more than one evaluation people
16 get?

17 A Pardon?

18 Q Do people get more than one evaluation from a
19 rotation?

20 A Not usually.

21 Q The reason I ask is you mentioned the CEC
22 portion of his evaluation.

23 A He did a month of inpatient at McLean and that
24 was fine.

1 think he was also on Taunton State.

2 Q You said the reach rotation. What does that
3 refer to?

4 A It stands for rehabilitation something. It's
5 a domiciliary program for homeless people who
6 have had a substance abuse problem and who are
7 willing to undergo rehab.

8 Q When did you first meet Doctor Badgaiyan?

9 THE WITNESS: Did we meet --

10 A Well, I can't ask him that. I first heard
11 about him in '98 before October of '98, maybe
12 August or September of '98.

13 Q And how did you happen to meet him on that
14 occasion?

15 A Doctor McCarley referred him to me.

16 Q Do you recall the terms of that referral?

17 A Yes, Doctor McCarley said that Raj was an
18 excellent researcher and would there been a
19 place for him in the program.

20 Q Do you recall how you responded?

21 A I said, you know, "I'd be glad to consider
22 him."

23 Q And when was the next time you had any contact
24 with Doctor Badgaiyan?

1 A Well, there were a couple of issues. First of
2 all, he had finished medical school, I think,
3 in '86 or '83. It was a long time prior to
4 this and it was our policy if somebody had
5 been out of medical school that long to have
6 them do a rotation on medicine to make sure
7 that they were up-to-date in their knowledge.

8 So the V.A. rules being as strict as
9 they are, we are not allowed to have an M.D.
10 on the premises who's not licensed. So I had
11 to write a letter to the Dean, Dean Fedderman,
12 (ph.) and request permission to have Raj come
13 and be what would be called, I guess, a
14 clinical clerk on the medical service with
15 the thought that he was a prominent researcher
16 and we would be interested in having him in
17 the residency program; and Doctor Tishler and
18 I both signed the letter and we got a response
19 from Doctor Fedderman it was okay to do that.

20 Q I think you said a name, Fedderman?

21 A He was one of the Deans at Harvard. Because
22 he'd have to come in service as a clinical
23 clerk under Harvard's umbrella.

24 Q Had you met him at that point -- Doctor

1 you got together with Doctor Badgaiyan once he
2 became a resident in the program?

3 A When they're away on outside rotation I don't
4 get to see them that often, but, you know, my
5 door is open and the residents come in and out
6 and it's not that formal.

7 Q Can you give us any estimate how often you
8 actually saw him during his residency?

9 A His whole residency?

10 Q Well, let's say the first year, October, 1999
11 to October 2000.

12 A Maybe ten times or I would see him in the hall
13 too, so -- and at conferences and things so
14 there was more than that even.

15 Q And can you provide an estimate or your best
16 recollection how often you saw him during his
17 PGYIII year -- that would have been October,
18 2000, 2001?

19 A Probably the same number of times. Maybe more
20 because he was -- There would have been
21 evening clinic so I should have seen him every
22 week if he showed up.

23 Q Do you have any recollection if he showed up
24 every week?

1 A No, he didn't.

2 Q How often did he show up?

3 A I don't know. I don't have a count. He was
4 not there all the time, as you would have
5 expected him to be.

6 Q Did you discuss that with him?

7 A Yes.

8 Q What did you say to him and what did he say to
9 you -- Strike that. When was that discussion?

10 A Probably I met him in the hall and we
11 discussed it or he would occasionally show up
12 and I would want him to be there every week.

13 Q And do you recall what he said to you?

14 A No, I don't recall what he said. He was
15 working somewhere else or doing something.
16 At one point he said something about he
17 wouldn't come because he didn't like what I
18 said to him as a supervisor, that I wanted him
19 to see his patients and come every week and
20 come to the conference. We had an hour
21 conference at the beginning of each clinic and
22 I wanted him to know it wasn't the end of the
23 clinic at that point, that he be there at the
24 beginning, that I wanted him to come and

1 A No. The other residents certainly complained
2 about it -- "How come he can get away with it
3 when you make us be here?"

4 Q Can you recall the names of any of the
5 residents that complained like that?

6 A Most of them --

7 MR. FARQUHAR: The question actually
8 calls for you to think of some names.

9 Q If you can?

10 A I don't remember who was around at that
11 particular time. I just know the morale of the
12 program was going downhill because people felt
13 Raj was getting away with murder.

14 Q Apart from people you specifically testified
15 complained about his failure to appear for the
16 evening clinic, can you give us the names of
17 any of the people that believed the morale was
18 going downhill because people thought that
19 Doctor Badgaiyan was getting away with murder?

20 A Doctor Festin.

21 Q Can you describe for me if at any point
22 questions or issues arose with relation to
23 Doctor Badgaiyan and his participation in the
24 Southshore Psychiatric Residency Program?

1 A What do you mean?

2 Q Well, you just described for me your own
3 reactions to his reported absences from the
4 evening clinic. Were there any other issues
5 that arose with respect to Doctor Badgaiyan
6 apart from the evening clinic issue?

7 A Yes, I would often get calls when he started a
8 rotation on the outside within the first week
9 or two from a supervisor that would call and
10 say, "What's going on with this guy? He told
11 me he'd be here on Friday" or "He's not
12 interested in clinical work."

13 Q Do you recall the names of any of the
14 individuals that called you like that?

15 A Mike Mufson.

16 Q Do you recall what institution he was
17 affiliated?

18 A West Roxbury.

19 Q Anybody else?

20 A Somebody called me from Taunton. I don't
21 remember who.

22 Q Anybody else?

23 A It seemed like every rotation and then I would
24 get calls from the other residents.

1 Sonia Kiota (ph.) sent me an email about
2 difficulty with Raj and his not being where he
3 was supposed to be. He didn't show up for call
4 one day and Doctor Naqui was upset about it.

5 Q Do you know what institution he's affiliated
6 with?

7 A He was a fellow resident at West Roxbury. He
8 was the Chief Fellow at that point.

9 Q Can you recall anyone else who raised any of
10 these issues about Doctor Badgaiyan?

11 A I probably have a record of them somewhere.
12 It seemed like every time he started a
13 rotation I got calls. I know that Sarah
14 Bolton was upset with him.

15 Q How do you know that?

16 A She told me.

17 Q When did she tell you?

18 A She told me on his evaluation and then she
19 subsequently wrote me a letter. When I had
20 asked her whether he could come back, she
21 canvassed the faculty there to ask whether
22 they felt he could come back and she
23 enumerated her complaints against him.

24 Q Do you know where that letter is?

1 Q Well, you had made up his schedule so you knew
2 when he was going to be starting a new
3 rotation; didn't you?

4 A A-hum, and there had been a difficulty in the
5 medical service. He was assigned to the
6 medical service at West Roxbury during his
7 PGYI year and he had a woman resident and a
8 woman Attendant and he hadn't done whatever it
9 was he was supposed to do correctly and they
10 told him what orders he should write and how
11 he should take care of the patient and he left
12 the service without writing the order.

13 And Doctor Tishler got so upset
14 with him that he threw him off the service and
15 I had to find somewhere else to put Raj to do
16 medicine which wasn't as good as that
17 particular rotation.

18 Q Were there any other incidents from his PGYI
19 year that came to your attention in
20 particular?

21 A No, he was fairly cool there.

22 Q And have you told us -- Strike that. Were
23 there any incidents that came to your
24 particular attention during his PGYIII year?

1 A Let's see. PGYIII would have started in
2 October. I'm not sure about the date, but the
3 problem with evening clinic continued in his
4 PGYIII year.

5 Q Were there any --

6 A And Doctor Osser had difficulty with him on
7 the reach rotation. He didn't respect Doctor
8 Osser's opinion about things so he felt he
9 couldn't learn anything from Him there so
10 he wouldn't attend Doctor Osser's offering.
11 I think eventually they may have made some
12 peace, but it was pretty hairy there for a
13 while.

14 Q Can you recall any specific events in
15 connection with Doctor Badgaiyan and Doctor
16 Osser?

17 A No. Doctor Osser didn't give him a very good
18 evaluation and that, I guess, they were
19 arguing during some of the lectures that he
20 did go to. Then there was something he didn't
21 do right on the reach rotation that Doctor
22 Osser was complaining about he didn't follow
23 through with.

24 He was supposed to pick up a

1 Swett how to deal with various things that
2 would happen and then they would speak to him
3 and get him to do whatever it was that was
4 needed. I'm sure I had conversations with
5 Doctor Gurrera because Doctor Gurrera was
6 feeding me complaints.

7 Q Do you know how many of those complaints made
8 it into Doctor Badgaiyan's record or file?

9 A At least five or six.

10 Q Are there any other events or incidents
11 related to Doctor Badgaiyan's relationship
12 with the Harvard Southshore Psychiatric
13 Residency Program that you haven't told us
14 about during the entire time period that he
15 was associated?

16 A What kind of things?

17 Q The kind of things that you've been talking
18 about. Anything that came to your attention
19 that you felt needed to be dealt with Doctor
20 Badgaiyan?

21 A About the training program or about
22 interactions with other residents?

23 Q Well, both.

24 A Well, there were some other things that

1 happened, but I'm not sure they're relevant
2 here.

3 Q Can you describe them? I understand that
4 you're concerned about the relevance, but --

5 A Well, there was another resident who -- a
6 female resident -- who was very much enamored
7 with Doctor Badgaiyan and he broke up with her
8 and she began to pursue him in an almost
9 stalking fashion, going to his house and just
10 not giving him any peace. I understand,
11 although I wasn't there, that she also came to
12 the ward and bothered him and he called my
13 Associate Training Director once to ask for
14 our help getting her off of being fixated on
15 him.

16 My Associate Training Director
17 called me and said, "Why don't you call him,"
18 he needed help and what could we do. So I
19 called Raj to talk to him about it and he said
20 at that time -- You know, I suggested he get a
21 Restraining Order or something like that and
22 he said no, he didn't want to make any written
23 complaint against her. But this was the time
24 when he was having outrageously high blood

1 pressure.

2 Q Do you recall when that was?

3 A It was July or August of '03 -- '02, I think.

4 It was July or August just before he was to
5 finish the three-month -- Let's see. It would
6 have been July or August of '02.

7 Q Let the record reflect that you're looking
8 over a piece of paper?

9 A I have the dates on here.

10 Q Do you have an opinion about whether Doctor
11 Badgaiyan has any psychiatric conditions?

12 A No, I don't. I know he was depressed at the
13 time and I sent him for a consult with Doctor
14 Salzman, who recommended an anti-depressant
15 and which Doctor Badgaiyan said he wasn't
16 going to take, I believe.

17 Q Do you recall when that occurred?

18 A Pardon?

19 Q Do you recall when that consultation happened
20 or when you contacted Doctor Salzman on Doctor
21 Badgaiyan's behalf?

22 A It was right before the blood pressure was an
23 issue. So it must have been May or June of
24 that same year.

1 Registration of Medicine?

2 A People are eligible for their license at
3 different times. Foreign medical graduates
4 have to have 12 post-graduate years of
5 training in order to be eligible. The Board
6 just requires one for American graduates and
7 then the applicants must have completed their
8 U.S. Exam III. It comes in three parts.

9 So as soon as they get their
10 U.S III, then they apply for their license.
11 I suppose the applications are slightly more
12 numerous towards the end of the year because
13 they're already on a limited license and those
14 people who don't want to moonlight don't have
15 any reason to complete it until they're ready
16 to leave the program.

17 Q And exactly what is it you have to do to
18 certify people?

19 A Fill out a form.

20 Q How many pages is the form?

21 A I think it's two and then some people ask for
22 a recommendation. The Board gives a form that
23 you have to have a licensed physician fill out
24 recommending you and a lot of residents give

1 me that as well to fill out.

2 Q How long does it ordinarily take you to
3 complete the certification form?

4 A Probably 15 minutes on a good day.

5 Q And do you have any sense of what the ordinary
6 turn-around time for you is if it takes you
7 15 minutes to fill out -- I guess then it has
8 to sit there for a couple of days?

9 A I have a tremendous amount of back-up and in
10 this particular case, I wanted to send the
11 form through our District Counsel.

12 Q Why was that?

13 A Because Raj had filed two grievances following
14 his finding out that he had to extend his
15 training.

16 Q What grievances were those?

17 A They were -- One with the V.A. and one with
18 the Massachusetts --

19 Q Commission Against Discrimination?

20 A Yes.

21 Q Who is the District Counsel?

22 A Mr. Lukey is the District Counsel and he
23 assigned Mr. Roseman to deal with this
24 situation.

1 Q What other things may there have been, if you
2 recall?

3 A Maybe complaints against him.

4 Q And I'm going to ask that the record show when
5 I asked you how thick the file was, you held
6 up both hands and placed them to my estimation
7 probably ten inches apart.

8 A Perhaps even more.

9 Q But then you actually specified that the
10 portion that you actually sent was --

11 A Because his application and all his CV and all
12 that from before wasn't relevant or his V.A.
13 when he started and stopped, et cetera, et
14 cetera. A lot of the correspondence back and
15 forth to the Dean and all that wasn't really
16 relevant.

17 Q Do you recall when you sent those papers to
18 The Board of Registration?

19 A No, I don't know.

20 Q Can you estimate how long after you provided
21 the original certification form?

22 A Maybe a month.

23 Q Are you aware of any residents in the program
24 between January 1, 2000 and December 31, 2004

1 additional time beyond the four years?

2 A To be more precise, he was assigned to the
3 inpatient services I believe in July and
4 August or August and September; then October,
5 November and December he was assigned to work
6 one day a week only in the outpatient
7 department and then he did the rest of his
8 time on his research. So this remediation
9 really was three months one day a week that he
10 was required to work.

11 Q Do you recall ever suggesting to Attendings to
12 whom Raj was assigned about the way they
13 should evaluate him?

14 A No. That's completely up to them, although I
15 did when I got all these phone calls. I said,
16 "Don't tell me over the phone. Put it in
17 writing if you have anything to say," because
18 I needed it in writing.

19 Q Between January 1, 2000 and December 31, 2,004
20 how many residents failed to pass the oral
21 exam?

22 A I don't know, quite a few. Maybe not quite a
23 few, but there were a couple each year who
24 did, but they took it over and generally

1 passed, every single one.

2 Q Now, you testified that PGYI rotations include
3 frequently or usually, I guess, a medical
4 internship type element. Are there gradations
5 in the rotations for the other years as well?

6 A What do you mean gradations?

7 Q Are there some rotations that PGYIII is
8 supposed to take that a PGYII is not really
9 quite ready for?

10 A Not really, but practically speaking, yes.
11 PGYI's at the beginning of the year are only
12 learning inpatient -- I think PGYIII's the
13 beginning of the year are learning inpatient
14 psychiatry and I wouldn't want them working
15 outpatient other than under close supervision
16 and with just maybe one or two patients which
17 is what evening clinic was.

18 Q Do you recall mentioning to Doctor Meyer
19 anything about Doctor Badgaiyan's going to
20 England?

21 A I don't know if I mentioned it to him or not.
22 Doctor Badgaiyan did take a couple of weeks
23 off to go to England.

24 Q Do you have an opinion of Indian medical

1 care of residents in the Harvard Program
2 between January 1, 2000 and December 31, 2004?

3 MR. FIELD: Objection. Go ahead and
4 answer.

5 A I don't know of any specifically. There are
6 sometimes suicides. I don't always hear
7 about them.

8 Q Do you know how many died under the care of
9 Doctor Badgaiyan during that time period?

10 A I don't know that any did.

11 Q Do you recall how many days Doctor Badgaiyan
12 missed of the program on account of his
13 illness with blood pressure or whatever?

14 A I think it was close to a month. It may have
15 been three weeks and then he came in
16 part-time.

17 Q Do you know how long he was there for
18 part-time?

19 A It was sort of inconsistent. Some days he'd be
20 there part-time and some days full-time,
21 depending on how he felt, I think.

22 Q And do you recall if there was a point at
23 which he was there full-time pretty regularly?

24 A I think after the blood pressure got under

1 stuff at the store, things like that.

2 Q Do you think that doing the website is
3 comparable to going to the store?

4 A No, Raj volunteered to do the website and we
5 wanted him to finish it because he knew how to
6 do it and we didn't. So we wanted him to
7 finish it -- although Doctor McCarley included
8 it on his recommendation to Raj that he finish
9 the website, he was never held to it and we
10 still don't have a website that's any good.

11 Q Does the V.A. have any procedures for putting
12 people on probation in the graduate program?

13 A No.

14 Q Do you recall any conversations with Doctor
15 Mufson concerning Doctor Badgaiyan's
16 performance during his medical rotation, which
17 I assume is PGYI?

18 A Not about his medical rotation, but his
19 medical psych consults.

20 Q What did you tell Doctor Mufson about Doctor
21 Badgaiyan?

22 A He called me up and asked, "What's going on
23 with this guy? He's not here." And then one
24 of the senior residents on this service wrote

1 this big complaint about Raj about how he
2 didn't show up at the time he was supposed to
3 be there and that he had a lot of complaints
4 about his behavior and attitude.

5 Q Do you know if that complaint that you just
6 referred to is in the record?

7 A I don't know. I think so. I don't know if
8 you have it, but I think Sonia Kiota --

9 Q Do you know if any residents ever got less
10 than a 2.4 average on an evaluation that were
11 not failed for that rotation?

12 A Not to my knowledge.

13 Q Do you recall a resident named Martina -- and
14 I don't know if it's a first or last name?

15 A A-hum.

16 Q Can you tell me anything about her?

17 A It's a he. He's now attending clerk at the
18 Corrigan Mental Health Center.

19 Q Corrigan, you say?

20 A It's another one of our rotation sites.

21 Q Do you know if any residents apart from Doctor
22 Badgaiyan had appointments at medical schools
23 at the Assistant Professor level during the
24 time period we've been talking about?

1 Q And you are an employee of The United States
2 Veterans Administration; is that right?

3 A That's correct.

4 Q And the V.A. pays your checks?

5 A That's correct.

6 Q And you as an employee of the V.A. are
7 governed by certain rules and regulations that
8 V.A. employees have to follow?

9 A Quite a few.

10 Q And you also hold a faculty appointment at
11 Harvard Medical School?

12 A That's right.

13 Q Are you aware of any rules and regulations
14 governing your appointment as a faculty member
15 concurrent at Harvard Medical School?

16 A Not really. There are some issues about a
17 conflict of interest with regard to patterns
18 and things like that that we have to follow
19 and certain salary restrictions we have to
20 take, but that's it.

21 Q Do you know where the Harvard Medical School
22 is located?

23 A 180 Longwood Ave., Boston.

24 Q Do you have an office at the Harvard Medical

1 School?

2 A No. It would be nice, but I don't.

3 Q Do you have occasion to be there to work?

4 A No.

5 Q You have a title of Director of the Southshore
6 V.A. Psychiatry Program; is that correct?

7 A Harvard Southshore Psychiatry Residency
8 Program.

9 Q Is that a title that's given to you by the
10 V.A.?

11 A Yes.

12 Q And does someone somewhere else at the V.A.
13 have to approve your appointment to that
14 title?

15 A Yes.

16 Q Or to that job, excuse me. You've indicated
17 that there are other medical schools with
18 affiliations with the V.A.?

19 A Yes.

20 Q Specifically at the Brockton facility?

21 A No, the affiliations are more central.
22 They're with the Associate Chief of Staff for
23 Education who runs the general medical
24 education office.

1 Q And Boston University Medical School has such
2 an affiliation with the V.A.?

3 A Yes.

4 Q And does Boston University Medical School also
5 have residents on-site at various V.A.
6 hospitals in the Boston system?

7 A Yes.

8 Q You mentioned the term independent
9 accreditation in connection with the program
10 that you run?

11 A Yes.

12 Q What does that mean?

13 A That means that our residents belong to the
14 V.A. and it's accredited with the V.A.
15 sponsoring hospital or the sponsoring
16 institution.

17 Q Is there another term aside from independent
18 accreditation that is used?

19 A Yes, there are two ways of having residents in
20 the V.A. One by disbursement agreement in
21 which the V.A. pays the medical school or
22 another hospital to have a residency program
23 and then the other hospital pays the
24 residents. Our residents are paid on direct

1 lines from the V.A. central office except for
2 two who are paid through the state funding
3 that I mentioned earlier.

4 Q You mentioned the term District Counsel.
5 Precisely as you can, can you tell me what the
6 title of that person is and who they work for
7 and what they do?

8 A I think they work for the V.A. It's their job
9 to deal with anything legal that comes up
10 within the V.A. system and to investigate and
11 to provide advice or whatever.

12 Q So is it your sense or your understanding that
13 there are government attorneys who represent
14 you in your capacity at the V.A. or at least
15 represent the V.A.?

16 A I think they represent the V.A.

17 Q And the training record that you mentioned
18 before, is that something that District
19 Counsel took control of at some point?

20 A Not completely, but anything I had to send out
21 I had to send it to them.

22 Q You mentioned Doctors Tishler, Kaplan and
23 McCarley as running the unit. I believe you
24 called it the Mental Health Service Line?